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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Andrew Sarkisian, et al.

Serial No.: 09/395,455

Group Art Unit: 3623

Filed: September 14, 1999

Examiner: Bachner, Rebecca M.

Title: METHOD FOR PROFILING NEW VEHICLES AND IMPROVEMENTS

Atty. Docket No.: 199-1135 (FGT 1113 PA)

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BRIEF ON APPEAL

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Dear Sir:

The following appeal brief is submitted pursuant to the Notice of Appeal filed October 26, 2003, in the above-identified application.

I. Real Party in Interest

The real party in interest in this matter is The Ford Global Technologies, Inc. in Dearborn, Michigan (hereinafter "Ford") is the assignee of the present invention and application.

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## **II. Related Appeals and Interferences**

There are no other known appeals or interferences, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## **III. Status Of The Claims**

Claims 1-8, 10, 13-15, 17-21, 23, 26-31, and 33 are currently pending and stand under final rejection, from which this appeal is taken. A copy of the claims on appeal is attached as an Appendix.

## **IV. Status Of Amendments**

On June 26, 2003, a Response in the form of an Amendment and Request for Reconsideration was filed, prior to the Final Office Action dated September 10, 2003, which provided remarks for the allowance of claims 1-8, 10, 13-15, 17-21, 23, 26-31, and 33. There have been no amendments filed subsequent to the stated Response.

## **V. Summary Of The Invention**

By way of summary, the present invention is directed to methods of developing a brand profile for a new product or vehicle. All of the independent claims, namely claims 1, 13, and 28, encompass several points of novelty, and since claims 2-8, 10, 14-15, 17-21, 23, 26-27, 29-31, and 33 depend from claims 1, 13, and 28, respectively, they also contain at least the same points of novelty.

Claims 1 and 13 recite a method of developing a brand profile for a new product or vehicle. The method of claim 1 includes providing a predetermined amount of product attributes 62 each representing an identifiable feature of a generic product under consideration. Claim 13 includes a similar limitation and further specifies the limitation for inclusion of attributes from particular groups of vehicle characteristics. The product attributes 62, of claims 1 and 13, are grouped in response to customer-oriented market research. The attributes 62 are placed in an attribute class 64 that corresponds to brand personality importance. Thereafter, a preferred product brand

position is generated as a function of the product attributes. In generating a preferred product brand position, such as primary brand positioning 68 and nameplate brand positioning 70, a competitive set of products are identified and each of the product attributes 62 are associated with a preferred competitive level with respect to the competitive set. Target product characteristics 32 are generated as a function of the classified product attributes 62 and the preferred product brand position. The target product characteristics 32 represent customer-driven objectives for each of the product attributes 62 to be incorporated into the new product or vehicle.

Claim 28 recites a method of developing a brand profile for a new automotive vehicle and includes similar limitations as that of claim 13. Claim 28 further includes the limitations of providing a cross-functional product team, providing target customer characteristics 32, and providing target vehicle brand image characteristics, such as 52, 54, and 56. Thereafter, a preferred vehicle brand position is generated by the cross-functional product team as a function of the vehicle attributes 62, the target customer characteristics 32, and the target vehicle brand image characteristics.

The methods of claims 1, 13, and 28 places each attribute in an attribute class 64 corresponding to brand personality importance. In so doing, each attribute may be given a class identifier, such as being a "differentiator", being "important", or being a "given." Each of these classes generally identifies each attribute based on brand personality importance, providing personality differences between brands for all classified attributes.

The methods of claims 1 and 13 also identify a competitive set of products and each of the product attributes 62 are associated with a preferred competitive level with respect to the competitive set that is associated with a preferred product brand position. In other words, the methods assign competitive levels for each attribute for a given brand. The competitive levels distinguish one product from another product and the preferred product brand position for each product.

The method of claim 28 generates the preferred vehicle brand position by the cross-functional product team and as a function of target vehicle brand image characteristics. As stated in the specification of the present application and as stated in the Response to the Office Action dated March 26, 2003, hereinafter referred to as the

First Office Action, the term "target vehicle brand image characteristics" has been defined to include areas of image/personality, product/service, and price/value. The target vehicle brand image characteristics provide additional "color" to the new product by identifying attributes relating to the products image and personality.

Applicants agree that the prior art within the field of product development has included the use of customer oriented market research in the development of a product. Applicants agree that product attributes have been used to distinguish between products. Applicants also agree that the prior art also includes the evaluation of product attributes in the determination of whether a customer may purchase a particular product. In addition, Applicants agree that integrated teams have been used in the development of a product. What is not known or suggested are the several novel aspects of the present invention. All of the novel aspects of the present invention are not taught or suggested by the prior art separately or in combination. The novel aspects are described in detail below.

What is not known or suggested is the placement of product attributes 62 in an attribute class 64 corresponding to brand personality importance. What is also not known or suggested is the assignment of competitive levels for each product attribute 62 for a given product brand position. Additionally, the generation of a preferred vehicle brand position through use of a cross-functional product team and as a function of target vehicle brand image characteristics.

Claim 2 recites the system of claim 1 wherein providing a predetermined number of product attributes 62 includes providing summary attributes and clarifying a definition for each of the summary attributes. The clarifying definition provides a relationship between each of the product attributes 62 and the type of product under development.

Claim 3 recites the system of claim 1 wherein providing a predetermined number of product attributes 62 includes providing a detailed definition for each of the product attributes 62. Each of the detailed definitions provides a context for each attribute as it relates to the product under development.

Claim 4 recites the system of claim 1 wherein placing each of the attributes 62 in an attribute class 64 includes placing each attribute 62 in one of three classes

wherein the first class represents attributes which differentiate the product from competing products. The second class represents important attributes, but that do not differentiate the new product from the competing products, and the third class represents otherwise desirable product attributes.

Claim 5 recites the system of claim 1 wherein placing each of the attributes 62 in an attribute class 64 includes placing each attribute 62 in one of three classes wherein the first class represents attributes which differentiate the product from competing products. The second class represents important attributes, but that do not differentiate the new product from the competing products, and the third class represents otherwise desirable product attributes.

Claim 6 recites the system of claim 4 and further includes the ranking of each product attribute 62. The rank being related to each of the classes such that each of the attributes in the first class has a higher rank than each of the attributes in the second class. Each of the attributes in the second class has a higher rank than each of the attributes in the third class.

Claim 7 recites the system of claim 1 and further includes the generating of a primary brand position as a function of the product attributes 62.

Claim 8 recites the system of claim 1 and further includes the generating a present product brand position as a function of the product attributes 62.

Claim 10 recites the system of claim 1 wherein associating each of the product attributes 62 with a preferred competitive level with respect to the competitive set includes prioritizing each product attribute 62 in one of four levels, the first level represents a desire for the product attribute to be a leader (L) with respect to the competitive set, the second level represents a desire for the product attribute to be among the leaders (A) with respect to the competitive set, the third level represents a desire for the product attribute to be competitive (C) with respect to the competitive set, and the fourth level represents a desire for the product attribute to be minimally competitive (M) with respect to the competitive set.

Claim 14 recites the system of claim 13 wherein providing vehicle attributes 62 includes providing summary attributes and clarifying a definition for each

of the summary attributes. The clarifying definition provides further detail relating each of the vehicle attributes 62 to a vehicle characteristic.

Claim 15 recites the system of claim 13 wherein providing vehicle attributes 62 includes providing a detailed definition for each of the vehicle attributes 62. Each of the detailed definitions provides a context for each attribute as it relates to the vehicle under development.

Claim 17 recites the system of claim 13 wherein placing each of the vehicle attributes 62 in an attribute class includes placing each attribute in one of three classes. The first class represents attributes that differentiate the vehicle from competing vehicles. The second class represents important attributes, but that do not differentiate the vehicle from competing vehicles. The third class represents otherwise desirable vehicle attributes.

Claim 18 recites the system of claim 13 and further includes ranking each of the vehicle attributes 62.

Claim 19 recites the system of claim 17 and further includes ranking each of the vehicle attributes 62, the rank being related to each of the classes such that each of the attributes in the first class have a higher rank than each of the attributes in the second class and each of the attributes in the second class have a higher rank than each of the attributes in the third class.

Claim 20 recites the system of claim 13 and further includes generating a primary brand position as a function of the vehicle attributes 62.

Claim 21 recites the system of claim 13 and further includes generating a present product brand position as a function of the vehicle attributes 62.

Claim 23 recites the system of claim 13 wherein associating each of the vehicle attributes 62 with a preferred competitive level with respect to the competitive set includes prioritizing each vehicle attribute 62 in one of four levels, the first level representing a desire for the vehicle attribute to be a leader (L) with respect to the competitive set, the second level representing a desire for the vehicle attribute to be among the leaders (A) with respect to the competitive set, the third level representing a desire for the vehicle attribute to be competitive (C) with respect to the competitive set,

and the fourth level representing a desire for the vehicle attribute to be minimally competitive (M) with respect to the competitive set.

Claim 26 recites the system of claim 19 wherein ranking each of the attributes 62 includes ranking design attributes differently than usage experience attributes and driving experience attributes.

Claim 27 recites the system of claim 26 wherein classifying each of the attributes 62 includes classifying each design attribute on a scale having more gradients than the classification scale for classifying usage experience attributes or driving experience attributes.

Claim 29 recites the system of claim 28 wherein providing target customer characteristics includes providing a brand positioning summary.

Claim 30 recites the system of claim 29 wherein the brand positioning summary includes target customer defining characteristics, target customer selection rationales, a summary of the new vehicles' role in the product portfolio, a competitive assessment, enduring reasons why a customer may purchase the new vehicle, and pricing considerations.

Claim 31 recites the system of claim 28 wherein providing target vehicle image characteristics includes providing a brand bullseye 50.

Claim 33 recites the system of claim 28 wherein the cross-functional product team includes at least one member from each of the following corporate departments: vehicle program management, marketing, purchasing, finance, engineering, and design.

## VI. Issues

The following issues are presented in this appeal, which correspond directly to the Examiner's final grounds for rejection in the Final Office Action dated September 10, 2003:

(1) whether claims 1-3, 5, 7, 8, 13-15, 18, 20, and 21 are patentable under 35 U.S.C. 102(b) as being anticipated by Frost (USPN 5,041,972),

(2) whether claims 4, 6, 17, 19, 23, 26, and 27 are patentable under 35 U.S.C. 103(a) over Frost, and

(3) whether claims 28-29, and 33 are patentable under 35 U.S.C. 103(a) over Frost and Eisner, "Essentials of Project and Systems Engineering Management".

## VII. Grouping of Claims

The rejected claims have been grouped together by the Patent Office Examiner in the rejection. The Appellants state, however, that each of the rejected claims stand on their own recitation and are separately patentable for the reasons set forth in more detail below.

## VIII. Argument

### A. THE REJECTION OF CLAIMS 1-3, 5, 7, 8, 13-15, 18, 20, and 21 UNDER 35 U.S.C. § 102(b)

Claims 1-3, 5, 7, 8, 13-15, 18, 20, and 21 stand fully rejected under 35 U.S.C. § 102(b) as being anticipated by Frost.

Frost discloses a method of measuring consumer response to changes in product attributes. The method of Frost includes performing customer interviews in which attributes are identified for given descriptors or are identified and grouped. The attributes are given a descriptor of rational, functional, emotional, or brand personality and user stereotype. Various interviews and analysis is performed until 1000-2000 attributes are reduced down to a final set of 30-50 attributes. The final set of attributes is determined to be the attributes that have the greatest degree of distinction between the greatest number of items. The method further includes determining total purchase probability or probability that a customer will purchase a product having certain attributes.

Frost does not teach or suggest the placement of product attributes in an attribute class corresponding to brand personality importance. Frost discloses grouping *products* according to *descriptors*, such as "spicy", which is not the same as grouping attributes of products based on brand personality importance. The Final Office Action states that in col.8, lines 36-39, in col. 10, lines 63-col. 11, line 6, and in Figure 6 that attributes are grouped into clusters in response to the customer-oriented



interviews and that product attributes are grouped according to their association with the descriptors. Applicants, respectfully, submit that in col.8, lines 36-39, Frost simply discloses grouping attributes to distinguish between different products, such as between different vehicles or different fragrances, which does not provide any degree of differentiation or importance of attributes of similar or different products of the same or different brands. In col. 10, lines 63-col.11, line 6, Frost discloses eliciting from consumers the extent to which each attribute is attributable to each product, again brand personality is not mentioned and grouping of attributes according to brand personality importance is not mentioned. Also, the use of attribute groupings in the development of a brand profile is not mentioned, which may have products with similar and different attributes, as further described below. In Figure 6, products are grouped according to descriptors. In Figure 6, similar products of different brands may be in the same group, thus there is no brand differentiation provided. Also, in Figure 6 brand names are not provided, and attributes or descriptors are not grouped according to a brand or according to brand personality importance.

Grouping similar attributes according to descriptors to distinguish between products is different than grouping attributes based on brand personality importance. The methods in claims 1 and 13 of the present application, in grouping attributes based on brand personality importance are able to determine differences between and associate similar and different products of the same or different brands. For example, two different products, such as a sports car and a luxury car, may have the corresponding attributes of being "sporty" or "luxurious". Whether the sports car and the luxurious car are of the same or different brands, one is able from their corresponding attributes to differentiate therebetween and associate one or more brands with the stated vehicles. As another example, when comparing attributes between two similar products, such as two sporty vehicles or two luxury vehicles, that are of the same or different brands, one is also able to differentiate therebetween and associate the vehicles with their respective brands.

Other more specific attributes may be necessary or different attribute groupings may arise to distinguish between similar or different products of the same brand and similar products of different brands, as compared to attributes used to

differentiate between different products of different brands. Continuing from the same examples provided above, a first sports car under the brand name of FORD™ may have the attribute of being sporty, but may also have other attributes, such as youthful, alive, and affordable, so as to differentiate it from a second sports car with a brand name of VOLVO™. A third car under the Volvo brand may have similar attributes as that of the second car, such as being safe, luxurious, and premium to associate it with the same brand as the second car, but may also have other attributes to distinguish it from the second car.

Frost also fails to teach or suggest the assignment of competitive levels for preferred product attributes for a preferred product brand position with respect to a competitive set. The Final Office Action states that in col. 4, lines 45-50, Frost discloses expressing a degree of preference for each item and that in col. 8, lines 45-67 that Frost plots products based on their attributes to include their rank. Applicants, respectfully, submit that in col. 4, lines 45-50, Frost discloses requesting consumers to express preferences for each item, which can be expressed as a preference for one item relative to another item, or the degree of likelihood that the consumer would choose or purchase the item. Determining whether a consumer prefers one item or product versus another product is clearly different than assigning a competitive level for each attribute associated with a preferred product brand position, as claimed in claims 1 and 13. Assigning a competitive level for each attribute associated with a particular brand refers to determining whether attributes of a product are considered competitive or uncompetitive, ranking attributes according to respective levels of competitiveness, and associating the levels of competitiveness for a preferred product brand position. In col. 8, lines 45-67, Frost discloses ranking product brands on a graph in relation to an ideal product brand determined from attribute evaluations. Ranking product brands, such as FORD™, VOLKSWAGON™, RENAULT™, FIAT™, and VOLVO™, against an ideal brand having the desired preferences of a consumer is also clearly different than assigning, ranking, and associating competitive levels of attributes for a preferred product brand position. Since, Frost does not disclose associating product attributes with a preferred competitive level for a preferred product brand position, Frost also

does not teach or suggest associating product attributes with a preferred competitive level with respect to a competitive set.

The Final Office Action states that the claims do not expressly recite how the product attributes are associated with the competitive levels. Applicants further submit that claims 1 and 13, do recite how the product attributes are associated with the competitive levels. Claims 1 and 13, of the present application, recite the identification of a competitive set of products and the association of each product attribute with a preferred competitive level with respect to the competitive set. As stated above, this may include the following tasks determining whether attributes of a product are considered competitive or uncompetitive, ranking attributes according to levels of competitiveness, and associating the levels of competitiveness for a preferred product brand position. Since, Frost does not teach or suggest the recited limitations, the stated tasks need not be literally expressed within the claims to overcome the teachings of Frost, although they can be inferred. Therefore, Applicants respectfully submit that the combinations in claims 1 and 13 are not found in the prior art.

Claim 2 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites providing summary attributes and clarifying a definition for each of the summary attributes. The clarifying definition provides a relationship between each of the product attributes 62 and the type of product under development. Neither of the references teach nor suggest this combination.

Claim 3 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites providing a detailed definition for each of the product attributes 62. Each of the detailed definitions provides a context for each attribute 62 as it relates to the product under development. Neither of the references teach nor suggest this combination.

Claim 5 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites placing each attribute 62 in one of three classes wherein the first class represents attributes which differentiate the product from competing products. The second class represents important attributes, but that do not differentiate the new product from the competing products, and the third class

represents otherwise desirable product attributes. Neither of the references teach nor suggest this combination.

Claim 7 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites generating of a primary brand position as a function of the product attributes 62. Neither of the references teach nor suggest this combination.

Claim 8 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites generating a present product brand position as a function of the product attributes 62. Neither of the references teach nor suggest this combination.

Claim 10 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites prioritizing each product attribute 62 in one of four levels, the first level represents a desire for the product attribute to be a leader (L) with respect to the competitive set, the second level represents a desire for the product attribute to be among the leaders (A) with respect to the competitive set, the third level represents a desire for the product attribute to be competitive (C) with respect to the competitive set, and the fourth level represents a desire for the product attribute to be minimally competitive (M) with respect to the competitive set. Neither of the references teach nor suggest this combination.

Claim 14 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites providing summary attributes and clarifying a definition for each of the summary attributes. The clarifying definition provides further detail relating each of the vehicle attributes 62 to a vehicle characteristic. Neither of the references teach nor suggest this combination.

Claim 15 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites providing a detailed definition for each of the vehicle attributes 62. Each of the detailed definitions provides a context for each attribute 62 as it relates to the vehicle under development. Neither of the references teach nor suggest this combination.

Claim 18 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites ranking each of the vehicle attributes 62. Neither of the references teach nor suggest this combination.

Claim 20 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites generating a primary brand position as a function of the vehicle attributes 62. Neither of the references teach nor suggest this combination.

Claim 21 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites generating a present product brand position as a function of the vehicle attributes 62. Neither of the references teach nor suggest this combination.

**B. THE REJECTION OF CLAIMS 4, 6, 17, 19, 23, 26, and 27 UNDER 35 U.S.C. § 103(a)**

Claims 4, 6, 17, 19, 23, 26, and 27 stand finally rejected under 35 U.S.C. 103(a) over Frost. Applicants submit that since the combinations of claim 1 and 13 are not found in the prior art, that the combinations of claims 4, 6, 17, 19, 23, 26, and 27 are also not found in the prior art for at least the same reasons.

Claim 4 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites placing each attribute 62 in one of three classes wherein the first class represents attributes which differentiate the product from competing products. The second class represents important attributes, but that do not differentiate the new product from the competing products, and the third class represents otherwise desirable product attributes. Neither of the references teach nor suggest this combination.

Claim 6 is believed to be allowable for the reasons set forth above since it depends from claim 1 and further recites ranking of each product attribute 62. The rank being related to each of the classes such that each of the attributes in the first class has a higher rank than each of the attributes in the second class. Each of the attributes in the second class has a higher rank than each of the attributes in the third class. Neither of the references teach nor suggest this combination.

Claim 17 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites placing each attribute 62 in one of three classes. The first class represents attributes that differentiate the vehicle from competing vehicles. The second class represents important attributes, but that do not differentiate the vehicle from competing vehicles. The third class represents otherwise desirable vehicle attributes. Neither of the references teach nor suggest this combination.

Claim 19 is believed to be allowable for the reasons set forth above since it depends from claim 17 and further recites ranking each of the vehicle attributes 62, the rank being related to each of the classes such that each of the attributes in the first class have a higher rank than each of the attributes in the second class and each of the attributes in the second class have a higher rank than each of the attributes in the third class. Neither of the references teach nor suggest this combination.

Claim 23 is believed to be allowable for the reasons set forth above since it depends from claim 13 and further recites prioritizing each vehicle attribute 62 in one of four levels, the first level representing a desire for the vehicle attribute to be a leader (L) with respect to the competitive set, the second level representing a desire for the vehicle attribute to be among the leaders (A) with respect to the competitive set, the third level representing a desire for the vehicle attribute to be competitive (C) with respect to the competitive set, and the fourth level representing a desire for the vehicle attribute to be minimally competitive (M) with respect to the competitive set. Neither of the references teach nor suggest this combination.

Claim 26 is believed to be allowable for the reasons set forth above since it depends from claim 19 and further recites ranking design attributes differently than usage experience attributes and driving experience attributes. Neither of the references teach nor suggest this combination.

Claim 27 is believed to be allowable for the reasons set forth above since it depends from claim 26 and further recites classifying each design attribute on a scale having more gradients than the classification scale for classifying usage experience attributes or driving experience attributes. Neither of the references teach nor suggest this combination.

**C. THE REJECTION OF CLAIMS 28-29 and 33 UNDER 35 U.S.C. § 103(a)**

Claims 28-29, and 33 stand fully rejected under 35 U.S.C. 103(a) over Frost and Eisner.

Neither Frost nor Eisner alone or in combination teach or suggest: (A) placing each of the product attributes in an attribute class corresponding to brand personality importance; (B) the generation of a preferred vehicle brand position through use of a cross-functional product team and as a function of vehicle attributes, target customer characteristics, and target vehicle brand image characteristics; and (C) the generation of target vehicle objectives by the cross-functional product team as a function of the vehicle attributes and the preferred vehicle brand position.

Eisner discloses interrelationships between project management and systems engineering. Eisner teaches an idea of "integrated product teams" with respect to team behavior and integrative management. The integrated product teams may include areas of marketing, sales, and research.

The Office Actions rely on Frost for the teaching or suggesting of limitations contained within A-C above, except for the use of a cross-functional product team, for which the Office Actions rely on Eisner. In regards thereto, Applicants respectfully traverse. Applicants take note that a product team is the only limitation contained within A-C above that is mentioned within Eisner. The Office Actions state that Frost does not disclose the use of a cross-functional product team. In regards thereto, Applicants agree.

In regards to element (A) above, Applicants submit that Frost does not teach or suggest placing each of the product attributes in an attribute class corresponding to brand personality importance. The First Office Action refers to col. 7, lines 10-11, col. 8, lines 16-67, and Figures 3, 4a, 4b, and 7 for such disclosure. Col. 7, lines 10-11 simply disclose eliciting descriptors associated with rational, functional, emotional, brand personality, and user stereotype. Col. 8, lines 16-67 and Figures 3, 4a, 4b, and 7 disclose presenting attributes to consumers for evaluation of given items, determining degree of preference for the given items according to the attributes, ranking the items relative to an ideal product, and determining likelihood that the

consumer would purchase the items. Nowhere in the stated sections is brand personality importance mentioned let alone the grouping and ranking of attributes according to brand personality importance. Although Frost may elicit various descriptors or attributes from consumers that may fit under brand personality, Frost does not group attributes according to brand personality importance. Nowhere in Frost is grouping of attributes according to brand personality importance inferred, mentioned, suggested, or performed.

In regards to element (B) above, Frost also does not teach or suggest the generation of a preferred vehicle brand position as a function of vehicle attributes, target customer characteristics, and target vehicle brand image characteristics, let alone through use of a cross-functional product team. Nowhere in Frost is a vehicle brand position mentioned or determined. Although, as stated in the First Office Action, Frost discloses eliciting attributes of consumers, determining degrees of preference for each attribute, and likelihood that a consumer will purchase a particular product, from which one may determine whether a consumer prefers one product over another, Frost does not disclose positioning of a vehicle brand. In col. 7, lines 32-54, Frost discloses a method of determining ability of descriptors to distinguish between different products. Again distinguishing between different products is different than determining a preferred vehicle brand position when developing a brand profile. Determining a preferred vehicle brand position accounts for not only attribute differences between different products, but for characteristics that provide a desired attribute grouping for a desired position of a brand.

In addition and in regards to element (C) above, Frost does not teach or suggest the generation of target vehicle objectives as a function of the vehicle attributes and the preferred vehicle brand position, let alone the generation thereof by the cross-functional product team. Since Frost does not teach or suggest the determination of a vehicle brand position, Frost also does not teach or suggest generation of target vehicle objectives as a function of the preferred vehicle brand position.

As well, referring now to MPEP 2121.01(a), while the Patent Office classification of references and the cross-references in the official search notes are some evidence of "analogy", the court has found "the similarities and differences in structure



and function of the inventions to carry far greater weight." *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973). Eisner would not have logically commended itself to the inventor's attention. In developing a brand profile, one would not have looked to an article describing integrated management for systems engineering. Although developing a brand profile and systems engineering may be considered as part of the large overall umbrella of product development, they are two separate and distinct areas of product development. Thus, Applicant submits that Eisner is nonanalogous art.

Furthermore, Frost and Eisner are unrelated and there is no suggestion in either Frost or Eisner for any combination thereof. Nowhere in Eisner is brand positioning discussed let alone the use of an integrated product team to generate a vehicle brand position, nor are integrated teams or system engineering discussed in Frost. The Final Office Action states that Eisner discloses the use of integrating product teams including areas of marketing, sales, and research and, in so doing, essentially teaches the use of product teams in the development of a product. However, there is no logical suggestion or connection provided between the use of product teams in the development of a product and the use of a cross-functional product team to determine attributes of a product, which may or may not be determined through use of such a team. As such, clearly no logical connection has been provided or exists in either reference between the use of product teams in the development of a product and the use of a cross-functional product team in the development of a brand profile. Merely stating that marketing research may be used in the development of a product, does not provide such connection. Also, vehicle brand position determination may or may not be performed using marketing, sales, and research information. Thus, although an integrated product team is mentioned in Eisner there is no direct connection with that of Frost, other than that both the method described in Frost and the interrelationships described in Eisner can be used separately in the development of a product.

Neither Frost nor Eisner alone or in combination teach or suggest the use of cross-functional product teams in brand positioning. Although it may be known to use product teams having areas of marketing, sales, and research in combining project management with systems engineering, it is not known to use a cross-functional

product team in the determination of a vehicle brand position. For the sake of argument, the combination of Frost and Eisner may lead one to use an integrated product team in the determination of attributes that better distinguish between products and the likelihood as to whether a consumer would purchase those products, but the combination thereof does not allow one to arrive at the method of claim 28 of the present application. Neither Frost nor Eisner mention developing a brand profile, determining brand positioning, or performing tasks thereof using a cross-functional product team. Therefore, Applicants respectfully submit that the combinations in claim 28 are not found in the prior art

Claim 29 is believed to be allowable for the reasons set forth above since it depends from claim 28 and further recites providing a brand positioning summary. Neither of the references teach nor suggest this combination.

Claim 30 is believed to be allowable for the reasons set forth above since it depends from claim 29 and further recites the brand positioning summary to include target customer defining characteristics, target customer selection rationales, a summary of the new vehicles' role in the product portfolio, a competitive assessment, enduring reasons why a customer may purchase the new vehicle, and pricing considerations. Neither of the references teach nor suggest this combination.

Claim 31 is believed to be allowable for the reasons set forth above since it depends from claim 28 and further recites providing a brand bullseye 50. Neither of the references teach nor suggest this combination.

Claim 33 is believed to be allowable for the reasons set forth above since it depends from claim 28 and further recites the cross-functional product team including at least one member from each of the following corporate departments: vehicle program management, marketing, purchasing, finance, engineering, and design. Neither of the references teach nor suggest this combination.

**IX. Appendix**

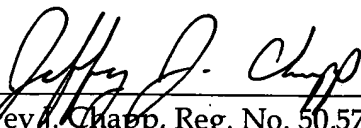
A copy of U.S. Patent 5,041,972 to Frost and a copy of "Essentials of Project and Systems Engineering Management" to Eisner are attached hereto as Appendix A.

A copy of the claims involved in this appeal, namely claims 1-8, 10, 13-15, 17-21, 23, 26-31, and 33, is attached hereto as Appendix B.

**X. Conclusion**

For the reasons advanced above, Appellants respectfully contend that each claim is patentable. Therefore reversal of the rejection is requested.

Respectfully submitted,

  
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Dated: December 23, 2003